City of Lafayette Staff Report

For:	City Council
By:	Tracy Robinson, Administrative Services Director
Date Written:	June 2, 2008
Meeting Date:	June 8, 2008
Subject:	**Second Loan Agreement, and First Amendment to Loan Agreement, between the Lafayette Redevelopment Agency and the Lafayette Library and Learning Center Foundation**

Background

The Lafayette Redevelopment Agency ("RDA") entered into a Loan Agreement with the Lafayette Library and Learning Center Foundation ("LLLCF") in May of last year for construction of the Lafayette Library and Learning Center (the "First Loan").

The LLLCF has now offered to loan the RDA an additional $2.5 million for construction purposes (the "Second Loan").

Analysis

Most of the terms of the Second Loan Agreement are similar to the terms of the May, 2008 Loan Agreement. However, the key provisions to emphasize include:

- Funds will be conveyed to RDA July 1, 2009;
- Interest will be 8%, compounded annually or a fraction thereof;
- The 6.25% interest rate on the First Loan will be increased to 6.5% while the Second Loan remains outstanding;
- The loan, and interest accrued thereon, will be repaid in one lump sum out of the proceeds from the next RDA bond issuance, or on December 1, 2012, whichever is earlier;
- Like the First Loan, the Second Loan will be unsecured. However, the First Loan will have seniority pursuant to the terms of the Second Loan Agreement; and
- Loan repayments will be used by LLLCF in accordance with the usage and funding agreements previously adopted by the City, RDA, and LLLCF.

Recommendation

Review and consider the loan agreements between the Lafayette Redevelopment Agency and the Lafayette Library and Learning Center Foundation.

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SECOND LOAN AGREEMENT

THIS SECOND LOAN AGREEMENT ("Second Loan Agreement" or "Agreement"), dated as of June ____, 2009, is made by and between the Lafayette Redevelopment Agency (the "Agency") and the Lafayette Library and Learning Center Foundation (the "Foundation") in light of the following recitals. The Agency and the Foundation are sometimes collectively referred to in this Agreement as "Parties" and individual referred to as "Party".

RECITALS

WHEREAS, the Agency is a duly constituted redevelopment agency under the laws of the State of California and pursuant to such laws has duly proceeded with the redevelopment of its Lafayette Redevelopment Project Area (the "Project Area");

WHEREAS, the Redevelopment Plan for said Project Area provides for tax increment financing in accordance with the provisions of Chapter 6, Part 1 of Division 24 of the Health and Safety Code of the State of California and Section 16 of Article XVI of the Constitution of the State of California;

WHEREAS, in furtherance of the Redevelopment Plan for the Project Area, and after complying with the requirements of Health & Safety Code Sections 33445 and 33679, the Agency previously entered into that certain Loan Agreement with the Agency, dated May 12, 2008 (the "Loan Agreement") to assist in financing the Lafayette Library and Learning Center (the "Project") by borrowing $9,000,000 from the Foundation under the Loan Agreement to be used by the Agency to pay for a portion of the cost of the Project (the "First Loan");

WHEREAS, the Agency has now determined that it requires an additional $2.5 million in additional funding for construction of the Project;

WHEREAS, in furtherance of the Redevelopment Plan for the Project Area, and after complying with the requirements of Health & Safety Code Sections 33445 and 33679, the Agency has determined to assist in financing the Project by borrowing $2.5 million from the Foundation under this Second Loan Agreement to be used by the Agency to pay for a portion of the cost of the Project (the "Second Loan"); and

WHEREAS, Health and Safety Code Section 33132 and 33600 authorizes the Agency to borrow or accept financial assistance for the agency's activities, powers, and duties.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

Section 1. Incorporation of Recitals. The recitals, including the defined terms, set forth above, are hereby restated and incorporated in this Second Loan Agreement as if restated in full.

Section 2. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Second Loan Agreement and of any amendment hereto, and of any certificate, opinion, estimate or other document herein mentioned, have the meanings herein specified

"Agency" means the Lafayette Redevelopment Agency, a redevelopment agency and public body, corporate and politic, duly organized and existing under and by virtue of the laws of the State of California.

"Bonds" means all tax allocation bonds or other evidences of indebtedness outstanding as of the date hereof or issued in the future by the Agency and secured by Tax Increment Revenues which are sold to parties other than the City or any subordinate agency of the City or the Foundation.

"City" means the City of Lafayette, a California municipal corporation.

"Foundation" means the Lafayette Library and Learning Center Foundation, a non-profit public benefit corporation duly organized and existing under and by virtue of the laws of the State of California.

"Foundation Repayment Bonds" means Bonds anticipated to be issued by the Agency during calendar year 2012 for the purpose of, among other things, repaying the Second Loan.

"Law" means the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State of California and the acts amendatory thereof and in supplement thereto. Whenever reference is made in this Second Loan Agreement to the Law, reference is made to the law as in force on the date of the execution of this Second Loan Agreement, unless the context otherwise requires.

"Project" has the meaning set forth in the Recitals.

"Project Area" has the meaning set forth in the Recitals.

"Tax Increment Revenues" means all taxes allocated to, and paid into a special fund of the Agency for the Project Area pursuant to Article 6 of Chapter 6 of the Law and Section 16 of Article XVI of the Constitution of the State of California, and as provided in the redevelopment plan for the Project Area, including all payments and reimbursements, if any, to the Agency specifically attributable to *ad valorem* taxes lost by reason of tax exemptions and tax rate limitations; excluding amounts required to be deposited in the Agency's low and moderate income housing fund pursuant to the Law.

Section 3. Loan. The Foundation hereby agrees to lend to the Agency the amount of two million five hundred thousand dollars ($2,500,000), which it shall convey to Agency on July 1, 2009 (the "Second Loan"). The Agency agrees to use the Second Loan to pay the construction costs for the Project as they become due and agrees that such amounts will be

used to cover a portion of the total construction cost of the Project and for no other purpose.

Section 4. Source of Repayment; Subordination to Bond. The Agency agrees to make all loan payments hereunder from Tax Increment Revenues or any other source of legally available funds. Agency's obligations under this Second Loan Agreement are subordinate and junior to any Bonds and shall also be subordinate and junior to other indebtedness or form of obligation incurred prior to the effective date of this Second Loan Agreement. The Agency hereby pledges and grants a security interest in the Tax Increment Revenues to the Foundation as security for the loan payments; provided, that such pledge and security interest shall be at all times subordinate to the obligation of the Agency to pay debt service on all Bonds. The Foundation agrees that, in the event the Agency does not have sufficient funds after payment of debt service on Bonds to repay the Second Loan, the shortfall, to the extent that it is accrued interest, shall be treated as additional advances hereunder which increase the outstanding loan balance and the Agency shall not be declared in default hereunder. Notwithstanding any default by the Agency hereunder, under no circumstances shall the amounts due to the Foundation hereunder be subject to acceleration.

Section 5. Modification of First Loan; Amendment of Loan Agreement. The parties agree that the Loan Agreement shall be modified to increase the interest rate of the First Loan to 6.5% as of July 1, 2009, as long as the Second Loan remains outstanding.

Section 6. Loan Repayment, Interest Rate. The Agency and the Foundation agree that the outstanding Second Loan balance will accrue interest, compounded annually, or a fraction thereof, at the commercially reasonable rate of 8% per annum commencing on July 1, 2009 until Agency issues and receives the proceeds for the Foundation Repayment Bonds, or otherwise until the balance of the Second Loan is fully repaid. Any accrued and unpaid interest as of June 30th of each year shall be added to the principal balance of the Second Loan as of that date. The Agency agrees that it will repay the Second Loan and accrued interest as follows:

(a) Upon issuance of the Foundation Repayment Bonds, and receipt of the proceeds therefrom, the Agency shall re-pay the Foundation the full amount of the Second Loan, and all interest accrued thereon to such date, in one payment.

(b) With the Foundation's consent, which will not be unreasonably withheld, the Agency at any time may elect to prepay all or any portion of the outstanding Second Loan balance prior to the issuance of the Foundation Repayment Bonds without penalty from any source of legally available funds. The Agency shall pay interest accrued on the outstanding Second Loan through the date of payoff.

(c) If the Agency has legally available funds that are not committed to the repayment of Bonds and other indebtedness or form of obligation incurred prior to the effective date of this Second Loan Agreement, it shall repay the Second Loan and all interest accrued thereon in full by December 1, 2012 unless an alternative agreement is reached with the Foundation.

Section 7. Use of Loan Repayments. The Foundation shall use all loan

repayments in accordance with the usage and funding agreements previously adopted by the City, Agency and Foundation.

Section 8. Amendments. This Second Loan Agreement may be amended from time to time by the parties hereto for any purpose by an instrument in writing signed by a duly authorized representative of the Agency and the Foundation. These amendments may allow for the Foundation to sell some or all of the loan to third parties or for the repayment schedule to be adjusted if mutually approved by the Parties. Both the Agency and the Foundation shall cooperate with one another to approve amendments that are not harmful to either party, which amendments shall be approved by a majority of the Board of Trustees in the case of the Foundation. No amendment shall conflict with any covenants of the Agency made to owners of Bonds issued prior to such Amendment.

Section 9. Representations and Warranties of the Foundation.

The Foundation hereby makes the following representations and warranties to the Agency:

(a) The Foundation is a duly organized and existing non-profit public benefit corporation under the laws of the State of California, has full legal power and authority to enter into this Second Loan Agreement and has duly authorized the execution and delivery of this Second Loan Agreement in accordance with its Bylaws and Articles of Incorporation.

(b) To the extent that the funds used by the Foundation to make the loan hereunder have been obtained from gifts, donations, grants or bequests, the use of such funds for such purpose is not inconsistent with the terms of any such gifts, donations, grants or bequests.

(c) The Foundation is wholly independent of, and is not controlled, either indirectly or directly by, the City or the Agency. This Second Loan Agreement is made as an arm's length transaction.

(d) The making of the loan and the execution and delivery of this Second Loan Agreement will not constitute a breach or default of any other obligation of the Foundation pursuant to any contract, agreement, indenture, mortgage, deed of trust or any other instrument.

Section 10. Representations and Warranties of the Agency. The Agency hereby makes the following representations and warranties to the Foundation:

(a) The Agency is a duly organized and existing agency of the State of California under the Law, has full legal power and authority to enter into this Second Loan Agreement and has duly authorized and approved the execution and delivery of this Second Loan Agreement and the performance of the Agency's obligations hereunder.

(b) The Agency will apply the proceeds of the loan hereunder solely to the cost of the Project and will not use such proceeds in a way such that, under the laws in existence as of the date hereof, the interest payable on the Foundation Repayment Bonds would not be

excludable from gross income for federal and State of California income tax purposes.

(c) The Agency reasonably expects that it will have sufficient funds to pay all payments to the Foundation hereunder when due.

(d) The Agency is wholly independent of, and is not controlled by and does not control, either indirectly or directly, the Foundation. This Second Loan Agreement is made as an arm's length transaction.

(e) The execution and delivery by the Agency of this Second Loan Agreement, the making of the loan, the performance of the Agency's obligations hereunder and the consummation of the transactions contemplated hereby will not result in the violation of any law, statute, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental authority to or by which the Agency is bound and will not conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute (with due notice or lapse of time or both) a default under, any lease, loan agreement, mortgage, security agreement, trust indenture or other agreement or instrument to which the Agency is a party or by which it is bound or to which any of its properties or assets is subject.

(f) No consent, approval, authorization or other order of any governmental authority or other third-party is required to be obtained by the Agency in connection with the authorization, execution and delivery of this Second Loan Agreement or with the authorization and making of the loan or the performance of the Agency's obligations hereunder.

Section 11. Notices. Whenever it shall be necessary for either Party to serve notice on the other regarding this Agreement, such notice shall be served either in person, by certified mail, return receipt requested to the addresses below.

Agency: City of Lafayette Redevelopment Agency
3675 Mt. Diablo Blvd., # 210
Lafayette, California 94549
Attn: Executive Director

Foundation: Lafayette Library and Learning Center Foundation
P.O. Box 1472
Lafayette, California 94549
Attn: Treasurer

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Section 12. Legal Costs. In the event of any legal action between the Agency and the Foundation arising out of the obligations of the Parties pursuant to this Agreement, the

prevailing Party will be entitled to payment of its costs and expenses, including its attorneys' fees.

Section 13. Binding Effect; Successors. The Foundation shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Agency, which may be given in the Agency's sole and absolute discretion, but shall not be unreasonably withheld. Any attempt to do so in violation of this provision shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. This Agreement shall bind and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns and all of the Parties hereto shall be jointly and severally liable hereunder.

Section 14. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one and the same instrument which shall be binding upon the Parties notwithstanding that the Parties may not be signatories to the same counterpart or counterparts. The Parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart.

Section 12. Further Assurances. Whenever requested to do so by the other Party, each Party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, release, powers of attorney, instruments of further assurance, approvals, consents, and any further instruments or documents that are necessary, expedient, or proper to complete anything contemplated by this Agreement. In addition, each Party shall do any other acts and execute, acknowledge, and deliver any requested documents in order to carry out the intent and purpose of this Agreement.

Section 14. Modifications. All modifications to this Agreement must be in writing and signed by the Parties, and shall be follow the requirements for amendments set forth in Section 8 of this Agreement.

Section 15. Third-Party Rights. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person, other than the Parties and their respective successors and assigns.

Section 16. Governing Law; Choice of Venue. This Agreement shall be governed and construed in accordance with California law. Venue shall be Contra Costa County.

Section 17. Severability. If any provision of this Agreement becomes or is declared by a court to be illegal, unenforceable or void, that clause will be omitted and the remainder of the Agreement will continue in full force and effect. Such holding shall in no way affect the validity or enforceability of this Agreement.

Section 18. Entire Agreement. This Agreement constitutes the entire agreement between the Agency and the Foundation concerning the matters described herein and supersedes any and all other agreements, contracts, covenants, resolutions or other arrangements

with respect to the subject matter hereof.

IN WITNESS HEREOF, the parties hereto have executed this Second Loan Agreement as of the day and year first above written.

LAFAYETTE LIBRARY AND LEARNING CENTER FOUNDATION

By: _____
[Title]

LAFAYETTE REDEVELOPMENT AGENCY

By: _____
Executive Director

FIRST AMENDMENT TO LOAN AGREEMENT

THIS FIRST AMENDMENT TO LOAN AGREEMENT ("First Amendment"), dated as of June ____, 2009, is made by and between the Lafayette Redevelopment Agency (the "Agency") and the Lafayette Library and Learning Center Foundation (the "Foundation") in light of the following recitals. The Agency and the Foundation are sometimes collectively referred to in this First Amendment as "Parties" and individual referred to as "Party".

RECITALS

WHEREAS, the Agency is a duly constituted redevelopment agency under the laws of the State of California and pursuant to such laws has duly proceeded with the redevelopment of its Lafayette Redevelopment Project Area (the "Project Area");

WHEREAS, the Redevelopment Plan for said Project Area provides for tax increment financing in accordance with the provisions of Chapter 6, Part 1 of Division 24 of the Health and Safety Code of the State of California and Section 16 of Article XVI of the Constitution of the State of California;

WHEREAS, in furtherance of the Redevelopment Plan for the Project Area, and after complying with the requirements of Health & Safety Code Sections 33445 and 33679, the Agency previously entered into that certain Loan Agreement with the Agency, dated May 12, 2008 (the "Loan Agreement") to assist in financing the Lafayette Library and Learning Center (the "Project") by borrowing $9,000,000 from the Foundation under the Loan Agreement to be used by the Agency to pay for a portion of the cost of the Project (the "First Loan");

WHEREAS, the Agency has now determined that it requires an additional $2.5 million in additional funding for construction of the Project;

WHEREAS, in furtherance of the Redevelopment Plan for the Project Area, and after complying with the requirements of Health & Safety Code Sections 33445 and 33679, the Agency has determined to assist in financing the Project by borrowing $2.5 million from the Foundation under a Second Loan Agreement to be used by the Agency to pay for a portion of the cost of the Project (the "Second Loan");

WHEREAS, as a condition of entering into the Second Loan Agreement, the Parties have agreed to amend the Loan Agreement to provide that the 6.25% interest rate on the First Loan shall be increased to 6.5% as of July 1, 2009 while the Second Loan remains outstanding; and

WHEREAS, Health and Safety Code Section 33132 and 33600 authorizes the Agency to borrow or accept financial assistance for the agency's activities, powers, and duties.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

Section 1. Incorporation of Recitals. The recitals, including the defined terms, set forth above, are hereby restated and incorporated in this First Amendment as if restated

in full.

Section 2. Amendment of Loan Agreement. Section 3 of the Loan Agreement shall be and hereby is amended to read as follows:

"Section 3. Loan Repayment; Interest Rate. The Agency and the Foundation agree that the outstanding loan balance will accrue interest, compounded annually, at the rate of 6.25% per annum commencing on the date of disbursement of the loan amount by the Foundation to the Agency until the balance of the loan is fully repaid. Agency and Foundation further agree that the interest rate on the outstanding loan balance shall be increased to 6.5% per annum from July 1, 2009 until the Second Loan, provided for in the Second Loan Agreement dated June ___, 2009 by and between the Agency and the Foundation, is repaid in full. Any accrued and unpaid interest as of June 30th of each year shall be added to the principal balance of the Loan as of that date. The Agency agrees that it will repay the loan and accrued interest as follows:

(a) Subject to Section 4, upon issuance of the Foundation Repayment Bonds, the Agency shall pay the Foundation the sum of $4,000,000 from the proceeds of the Foundation Repayment Bonds, which shall include accrued interest and principal, if accrued interest to date is less than $4,000,000.

(b) If the Foundation Repayment Bonds are issued on or prior to June 30, 2016, then on June 30, 2017 and each successive June 30th, the Agency shall pay interest installments to the Foundation equal to the amount of interest shown in Exhibit A-1 and shall pay principal installments equal to the amounts shown in Exhibit A-1 until the loan balance and all accrued interest therein is fully repaid. If the Foundation Repayment Bonds are issued after June 30, 2016, then the parties shall renegotiate the amortization schedule as shown in Exhibit A-1 to provide the Foundation with payment as quickly as possible given the Agency's senior obligations and sources of funds and all interest that is not paid shall be added to the accrued balance.

(c) With the Foundation's consent which will not be unreasonably withheld, the Agency at any time may elect to prepay all or any portion of the outstanding loan balance without penalty from any source of legally available funds. In the event of a prepayment by the Agency, the annual principal payments required pursuant to Section 3(b) shall be reduced in each year (pro rata) by an amount equal to the percentage of the outstanding loan balance so prepaid.

(d) If the Agency has available funds that are not committed to the repayment of Bonds and other indebtedness or form of obligation incurred prior to the effective date of this Agreement, it must repay the loan and accrued interest in full December 31, 2039 unless an alternative agreement is reached with the Foundation."

Section 4. No Other Amendments. Except as set forth in this First Amendment, the Loan Agreement remains in full force and effect according to its terms.

Section 5. Incorporation of Amendment. From and after the execution of this First Amendment by the parties, whenever the term Loan Agreement appears in the Loan Agreement or Second Loan Agreement it shall be read and understood to mean the Loan

Agreement as amended by the First Amendment.

Section 6. Entire Agreement. This First Amendment, together with the Loan Agreement, constitutes the entire agreement between the Agency and the Foundation concerning the matters described herein and supercedes any and all other agreements, contracts, covenants, resolutions or other arrangements with respect to the subject matter hereof.

Section 7. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument and shall be binding upon the Parties notwithstanding that the Parties may not be signatories to the same counterpart or counterparts. The Parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart.

Section 8. Severability. If any provision of this First Amendment becomes or is declared by a court to be illegal, unenforceable or void, that clause will be omitted and the remainder of the First Amendment will continue in full force and effect. Such holding shall in no way affect the validity of this First Amendment.

IN WITNESS HEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

LAFAYETTE LIBRARY AND LEARNING CENTER FOUNDATION

By: _____
[Title]

LAFAYETTE REDEVELOPMENT AGENCY

By: _____
Executive Director

LOAN AGREEMENT

THIS LOAN AGREEMENT (the "Agreement"), dated as of May 12, 2008, is made by and between the Lafayette Redevelopment Agency (the "Agency") and the Lafayette Library and Learning Center Foundation (the "Foundation"). The Agency and the Foundation are sometimes collectively referred to in this Agreement as "Parties" and individually referred to as "Party". This Agreement is made in light of the following recitals:

RECITALS

WHEREAS, the Agency is a duly constituted redevelopment agency under the laws of the State of California and pursuant to such laws has duly proceeded with the redevelopment of its Lafayette Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Redevelopment Plan for said Project Area provides for tax increment financing in accordance with the provisions of Chapter 6, Part 1 of Division 24 of the Health and Safety Code of the State of California and Section 16 of Article XVI of the Constitution of the State of California; and

WHEREAS, in furtherance of the Redevelopment Plan for the Project Area, and after complying with the requirements of Health & Safety Code Sections 33445 and 33679, the Agency has determined to assist in financing the Lafayette Library and Learning Center (the "Project") by borrowing from the Foundation under this Loan Agreement an amount to be used by the Agency to pay for a portion of the cost of the Project; and

WHEREAS, Health and Safety Code Section 33132 and 33600 authorizes the Agency to borrow or accept financial assistance for the agency's activities, powers, and duties.

NOW, THEREFORE, in consideration of the mutual covenants herein contained it is agreed by and between the parties hereto, as follows:

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Loan Agreement and of any amendment hereto, and of any certificate, opinion, estimate or other document herein mentioned, have the meanings herein specified.

"Agency" means the Lafayette Redevelopment Agency, a redevelopment agency and public body, corporate and politic, duly organized and existing under and by virtue of the laws of the State of California.

"Bonds" means all tax allocation bonds or other evidences of indebtedness outstanding as of the date hereof or issued in the future by the Agency and secured by Tax Increment Revenues which are sold to parties other than the City or any subordinate agency of the City or the Foundation.

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"City" means the City of Lafayette, a California municipal corporation.

"Foundation" means the Lafayette Library and Learning Center Foundation, a non-profit public benefit corporation duly organized and existing under and by virtue of the laws of the State of California.

"Foundation Repayment Bonds" means Bonds expected to be issued by the Agency during calendar year 2015 for the purpose of, among other things, repaying a portion of the Loan.

"Law" means the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State of California and the acts amendatory thereof and in supplement thereto. Whenever reference is made in this Loan Agreement to the Law, reference is made to the law as in force on the date of the execution of this Loan Agreement, unless the context otherwise requires.

"Project" has the meaning set forth in the Recitals.

"Project Area" has the meaning set forth in the Recitals.

"Tax Increment Revenues" means all taxes allocated to, and paid into a special fund of the Agency for the Project Area pursuant to Article 6 of Chapter 6 of the Law and Section 16 of Article XVI of the Constitution of the State of California, and as provided in the redevelopment plan for the Project Area, including all payments and reimbursements, if any, to the Agency specifically attributable to *ad valorem* taxes lost by reason of tax exemptions and tax rate limitations; excluding amounts required to be deposited in the Agency's low and moderate income housing fund pursuant to the Law.

Section 2. Loan. The Foundation hereby agrees to lend to the Agency the amount of nine million dollars ($9,000,000) on May 15, 2008. The Agency agrees to use the loan amount to pay the construction costs for the Project as they become due and agrees that such amounts will be used to cover a portion of the total construction cost of the Project and for no other purpose.

Section 3. Loan Repayment; Interest Rate. The Agency and the Foundation agree that the outstanding loan balance will accrue interest, compounded annually, at the rate of 6.25% per annum commencing on the date of disbursement of the loan amount by the Foundation to the Agency until the balance of the loan is fully repaid. Any accrued and unpaid interest as of June 30th of each year shall be added to the principal balance of the Loan as of that date. The Agency agrees that it will repay the loan and accrued interest as follows:

(a) Subject to Section 4, upon issuance of the Foundation Repayment Bonds, the Agency shall pay the Foundation the sum of $4,000,000 from the proceeds of the Foundation Repayment Bonds, which shall include accrued interest and principal, if accrued interest to date is less than $4,000,000.

(b) If the Foundation Repayment Bonds are issued on or prior to June 30, 2016, then on June 30, 2017 and each successive June 30th, the Agency shall pay interest installments to the Foundation equal to the amount of interest shown in Exhibit A-1 and shall pay principal installments equal to the amounts shown in Exhibit A-1 until the loan balance and all accrued interest therein is fully repaid. If the Foundation Repayment Bonds are issued after June 30, 2016, then the parties shall renegotiate the amortization schedule as shown in Exhibit A-1 to provide the Foundation with payment as quickly as possible given the Agency's senior obligations and sources of funds and all interest that is not paid shall be added to the accrued balance.

(c) With the Foundation's consent which will not be unreasonably withheld, the Agency at any time may elect to prepay all or any portion of the outstanding loan balance without penalty from any source of legally available funds. In the event of a prepayment by the Agency, the annual principal payments required pursuant to Section 3(b) shall be reduced in each year (pro rata) by an amount equal to the percentage of the outstanding loan balance so prepaid.

(d) If the Agency has available funds that are not committed to the repayment of Bonds and other indebtedness or form of obligation incurred prior to the effective date of this Agreement, it must repay the loan and accrued interest in full by December 31, 2039 unless an alternative agreement is reached with the Foundation.

Section 4. Source of Repayment; Subordination to Bonds. The Agency agrees to make all loan payments hereunder from Tax Increment Revenues or any other source of legally available funds. Agency's obligations under this Agreement are subordinate and junior to any Bonds and shall also be subordinate and junior to other indebtedness or form of obligation incurred prior to the effective date of this Agreement. The Agency hereby pledges and grants a security interest in the Tax Increment Revenues to the Foundation as security for the loan payments; provided, that such pledge and security interest shall be at all times subordinate to the obligation of the Agency to pay debt service on all Bonds. The Foundation agrees that, in the event the Agency does not have sufficient funds after payment of debt service on Bonds to make the scheduled payments hereunder, the shortfall, to the extent that it is accrued interest, shall be treated as additional advances hereunder which increase the outstanding loan balance and the Agency shall not be declared in default hereunder. Not withstanding Section 3(a), if the Foundation Repayment Bonds are issued and are less than the sum of $4,000,000, the Agency shall endeavor to use unencumbered revenue to pay interest due pursuant to Section 3(b) above to the Foundation equal to the amounts shown in Exhibit A-1, and if possible, principal installments. Notwithstanding any default by the Agency hereunder, under no circumstances shall the amounts due to the Foundation hereunder be subject to acceleration.

Section 5. Amendments. This Loan Agreement may be amended from time to time by the parties hereto for any purpose by an instrument in writing signed by a duly authorized representative of the Agency and the Foundation. These amendments may allow for the Foundation to sell some or all of the loan to third parties or for the repayment schedule to be adjusted if mutually approved by the Parties. Both the Agency and the Foundation shall cooperate with one another to approve amendments that are not harmful to either party, which

amendments shall be approved by a majority of the Board of Trustees in the case of the Foundation. No amendment shall conflict with any covenants of the Agency made to owners of Bonds issued prior to such amendment.

Section 6. Representations and Warranties of the Foundation.

The Foundation hereby makes the following representations and warranties to the Agency:

(a) The Foundation is a duly organized and existing non-profit public benefit corporation under the laws of the State of California, has full legal power and authority to enter into this Loan Agreement and has duly authorized the execution and delivery of this Loan Agreement in accordance with its Bylaws and Articles of Incorporation.

(b) To the extent that the funds used by the Foundation to make the loan hereunder have been obtained from gifts, donations, grants or bequests, the use of such funds for such purpose is not inconsistent with the terms of any such gifts, donations, grants or bequests.

(c) The Foundation is wholly independent of, and is not controlled, either indirectly or directly by, the City or the Agency. This Loan Agreement is made as an arm's length transaction.

(d) The making of the loan and the execution and delivery of this Loan Agreement will not constitute a breach or default of any other obligation of the Foundation pursuant to any contract, agreement, indenture, mortgage, deed of trust or any other instrument.

Section 7. Representations and Warranties of the Agency. The Agency hereby makes the following representations and warranties to the Foundation:

(a) The Agency is a duly organized and existing agency of the State of California under the Law, has full legal power and authority to enter into this Loan Agreement and has duly authorized and approved the execution and delivery of this Loan Agreement and the performance of the Agency's obligations hereunder.

(b) The Agency will apply the proceeds of the loan hereunder solely to the cost of the Project and will not use such proceeds in a way such that, under the laws in existence as of the date hereof, the interest payable on the Foundation Repayment Bonds would not be excludable from gross income for federal and State of California income tax purposes.

(c) The Agency reasonably expects that it will have sufficient funds to pay all payments to the Foundation hereunder when due.

(d) The Agency is wholly independent of, and is not controlled by and does not control, either indirectly or directly, the Foundation. This Loan Agreement is made as an arm's length transaction.

(e) The execution and delivery by the Agency of this Loan Agreement, the making of the loan, the performance of the Agency's obligations hereunder and the consummation of the transactions contemplated hereby will not result in the violation of any law, statute, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental authority to or by which the Agency is bound and will not conflict with, or result in a breach or violation of, any of the terms or provisions of, or constitute (with due notice or lapse of time or both) a default under, any lease, loan agreement, mortgage, security agreement, trust indenture or other agreement or instrument to which the Agency is a party or by which it is bound or to which any of its properties or assets is subject.

(f) No consent, approval, authorization or other order of any governmental authority or other third-party is required to be obtained by the Agency in connection with the authorization, execution and delivery of this Loan Agreement or with the authorization and making of the loan or the performance of the Agency's obligations hereunder.

Section 8. Notices. Whenever it shall be necessary for either Party to serve notice on the other regarding this Agreement, such notice shall be served either in person, by certified mail, return receipt requested to the addresses below.

Agency: City of Lafayette Redevelopment Agency
3675 Mt. Diablo Blvd., # 210
Lafayette, California 94549
Attn: Executive Director

Foundation: Lafayette Library and Learning Center Foundation
P. O. Box 1472
Lafayette, California 94549
Attn: Treasurer

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Section 9. Legal Costs. In the event of any legal action between the Agency and the Foundation arising out of the obligations of the Parties pursuant to this Agreement, the prevailing Party will be entitled to payment of its costs and expenses, including its attorneys' fees.

Section 10. Binding Effect; Successors. The Foundation shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Agency, which may be given in the Agency's sole and absolute discretion, but shall not be unreasonably withheld. Any attempt to do so in violation of this provision shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or

transfer. This Agreement shall bind and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns and all of the Parties hereto shall be jointly and severally liable hereunder.

Section 11. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original and all of which together shall constitute one and the same instrument which shall be binding upon the Parties notwithstanding that the Parties may not be signatories to the same counterpart or counterparts. The Parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart.

Section 12. Further Assurances. Whenever requested to do so by the other Party, each Party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, release, powers of attorney, instruments of further assurance, approvals, consents, and any further instruments or documents that are necessary, expedient, or proper to complete anything contemplated by this Agreement. In addition, each Party shall do any other acts and execute, acknowledge, and deliver any requested documents in order to carry out the intent and purpose of this Agreement.

Section 13. Modifications. All modifications to this Agreement must be in writing and signed by the Parties, and shall follow the requirements for amendments set forth in Section 5 hereof.

Section 14. Third-Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies.

Section 15. Governing Law; Choice of Venue. This Agreement shall be governed and construed in accordance with California law. Venue shall be Contra Costa County.

Section 16. Severability. If any provision of this Agreement becomes or is declared by a court to be illegal, unenforceable or void, that clause will be omitted and the remainder of the Agreement will continue in full force and effect. Such holding shall in no way affect the validity or enforceability of this Agreement.

Section 17. Entire Agreement. This Loan Agreement constitutes the entire agreement between the Agency and the Foundation concerning the matters described herein and supersedes any and all other agreements, contracts, covenants, resolutions or other arrangements with respect to the subject matter hereof.

IN WITNESS HEREOF, the parties hereto have executed this Loan Agreement as of the day and year first above written.

LAFAYETTE LIBRARY AND LEARNING CENTER FOUNDATION

By: _____
James M. Cunha, Treasurer

LAFAYETTE REDEVELOPMENT AGENCY

By: _____
Mike Anderson, Chair

ATTEST:

_____
Joanne Robbins, Board Secretary

LOAN AGREEMENT

By and among

LAFAYETTE REDEVELOPMENT AGENCY

and the

LAFAYETTE LIBRARY AND LEARNING CENTER FOUNDATION

May 12, 2008

Exhibit A-1

Interest and Principal Repayment Schedule
(Assuming Issuance of Foundation Repayment Bonds on June 30, 2016)

Payment Date*	Interest Payment Amount	Principal Payment Amount[1]
6/30/2008	-	-
6/30/2009	-	-
6/30/2010	-	-
6/30/2011	-	-
6/30/2012	-	-
6/30/2013	-	-
6/30/2014	-	-
6/30/2015	-	-
6/30/2016	-	$ 4,000,000.00
6/30/2017	$ 223,373.67	-
6/30/2018	232,685.56	-
6/30/2019	242,385.64	-
6/30/2020	252,490.09	-
6/30/2021	263,015.77	-
6/30/2022	273,980.24	-
6/30/2023	285,401.80	-
6/30/2024	297,299.48	-
6/30/2025	309,693.15	-
6/30/2026	322,603.49	-
6/30/2027	336,052.02	-
6/30/2028	1,051,234.80	600,000.00
6/30/2029	1,013,734.80	2,500,000.00
6/30/2030	857,484.80	2,700,000.00
6/30/2031	688,734.80	2,900,000.00
6/30/2032	507,484.80	3,100,000.00
6/30/2033	313,734.80	3,300,000.00
6/30/2034	107,484.80	1,719,756.87

[1] Principal includes repayment of accrued interest.